

AMENDMENT AND RESPONSE UNDER 37 CFR § 1.111

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Serial Number: 09/467,994

Dkt: P1585US00

Filing Date: December 20, 1999

Title: SYSTEM AND METHOD OF DISTRIBUTING AND RETURNING PRODUCTS

REMARKS

Claims 12, 33 and 34 are cancelled by this Amendment. As a result, claims 1-11, 13, 17-22 and 28-32 are now pending in the application. The present Amendment incorporates the features of allowed dependent claim 33 (including intervening claim 12) and claim 34, into their respective independent claims. The present amendments have been made with the intent to hasten the prosecution of the application, and secure an allowance. In the event the indication of allowability is withdrawn, applicants respectfully reserve the right to modify the claims to their previous state, without prejudice or disclaimer.

The Office Action includes: i) an Interview Summary for the telephone interview of October 22, 2002; ii) an indication of allowable subject matter in claims 19-22, 28, 29, 33 and 34; and iii) a rejection of claims 1-32 1-13, 17, 18 and 30-32 under 35 U.S.C. §103(a) in view of U.S. Patent 6,502,766 ("Shah"), and further in view of U.S. Patent 5,839,058 ("Phillips"), and yet further in view of U.S. Patent 5,769,269 ("Peters '269").

The Office Action, at page 2, mentions a declaration under 37 CFR 1.132 purportedly filed in the application on October 7, 2002. However, applicants respectfully submit that no such 37 CFR 1.132 declaration was filed. It is believed that this statement in the Office Action may refer to the "Amendment and Response under 37 CFR §1.111" filed by applicants on October 7, 2002, in which case no further action is required. However, in the event it is determined that papers from another application have been mistakenly placed in the present application files, it is respectfully requested that they be removed.

A Notice of Non-Compliance dated October 9, 2002 states that the newly added claims were missing from the Amendment filed on October 7, 2002, via facsimile. Contrary to this, applicants' copy of the Transmission Report for the facsimile indicates that all twelve pages of the October 7, 2002 Amendment were transmitted to the U.S.P.T.O. facsimile telephone number indicated in the Office Action. Applicants' representative telephoned the responsible Legal Instrument Examiner on 10/16/02 and 10/18/02 inquiring into the situation. It appears that some of the pages of the facsimile Amendment may have been misplaced before reaching the Examiner. However, the Office Action now indicates that the missing pages have since been matched with the application. Accordingly, it is believed that the Notice of Non-Compliance has been withdrawn and no further action is required.

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§103 Rejection of the Claims

The present Amendment incorporates features of the allowed claims into independent claims 1 and 30, respectively, thus obviating the rejection. Accordingly, withdrawal of the rejection is respectfully requested.

Conclusion

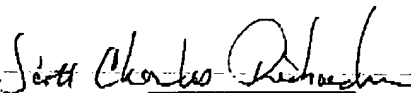
The pending claims are respectfully submitted to be in condition for allowance. Accordingly, notification to that effect is earnestly requested. In the event that issues arise in the application which may readily be resolved via telephone, the Examiner is kindly invited to telephone the Gateway, Inc. attorney at (605)232-1967 to facilitate prosecution of the application.

It is believed that no fee is owed for the present Amendment. However, if necessary, please charge any additional fees or credit overpayment to Deposit Account No. 50-0439.

Respectfully submitted,

Date: February 25, 2003

By



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APPENDIX

MARKED-UP VERSION OF AMENDED CLAIMS

1. (Twice Amended) A product distribution and return system, comprising:
- a product dispensed from a vending machine in one location; [and]
 - a return mailer dispensed with the product, wherein the return mailer is also a product case, the product returnable in the return mailer to a return center, the return center being in another location; and
 - a label comprising an address of the return center and having an amount of postage sufficient to mail the product to the return center;
 - wherein said label is configured for being attached to the return mailer for returning the product to the return center or alternatively for being attached to a second return mailer if the product is not returned to the return center;
 - wherein a product rental fee is defined in a set of product rental terms, further wherein the product rental fee includes fees for non-compliance with the product rental terms;
 - wherein the return center determines compliance or non-compliance with the product rental terms, further wherein an additional charge is posted to a consumer account or a future credit to a consumer account is canceled for non-compliance with the product rental terms;
 - and
 - wherein the product rental terms include terms related to a specified return date and product condition.
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30. (Twice Amended) An apparatus for dispensing products, comprising:
- means for selecting a particular product;
 - means for dispensing the particular product together with a first return mailer to a customer;
 - means for transporting the particular product from the customer back to a return center located apart from the means for dispensing;

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means for identifying the particular product; [and]
means for recording a transaction date in a database; and
a label comprising an address of the return center and having an amount of postage
sufficient to mail the particular product to the return center;
wherein said label is configured for being attached to the first return mailer for
returning the particular product to the return center or alternatively for being attached to a
second return mailer if the particular product is not returned to the return center; and
wherein said particular product is a media product and said means for transporting
comprises the first return mailer dispensed at said means for dispensing.